

MINUTES

FINANCE / PARKS & RECREATION / PUBLIC WORKS PROGRAMS COMMITTEE November 9, 2011

A meeting of the Finance / Parks & Recreation / Public Works Programs Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Tim Bynum, Chair, at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, November 9, 2011, at 9:24 a.m., after which the following members answered the call of the roll:

Honorable KipuKai Kuali'i
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Tim Bynum
Honorable Dickie Chang, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member

The Committee proceeded on its agenda items as follows, and as shown in the following Committee Reports, which are incorporated herein by reference, as follows:

Chair Bynum: We are going to only address the first item in this Committee before we go back to Planning. Can the clerk read that item please?

CR-FPP 2011-13: on FPP 2011-08 Communication (10/24/2011) from Committee Chair Bynum requesting the presence of Larry Dill, County Engineer, to provide an update on the repairs to the Hanapēpē Pedestrian Access Bridge.
[Received for the record.]

There being no objections, the Committee recessed at 10:21 a.m.

The Committee reconvened at 7:09 a.m., and proceeded as follows.

FPP 2011-07 Communication (9/30/2011) from Committee Chair Bynum, requesting the presence of Larry Dill, County Engineer, to provide: (1) An update on the County's FY 2011-2012 CIP projects; (2) Discuss the effectiveness of the Project Initiation Document (PID's) system; and (3) Provide an overview of how CIP projects are currently being "tracked and managed."
[This item was deferred.]

Chair Bynum: Committee, I would just like to make a few comments and then let you know that I'm going to be asking for a deferral. I don't see anyone in the audience who would want to testify on this matter. What I've asked for from Public Works is a follow up from 2009 when I was Chair of Public Works. They have provided this fancy spreadsheet of all the CIP projects. What I wanted to know then and what I still want to know... have a continuous kind of update on is how are we doing with our CIP projects? How efficient are we getting them from funding into implementation and completed? So the question I asked in 2009 was for all of these projects, can you tell us who's responsible for it? When did

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the funding come, what's the current status, and what's your estimated completion date? Now there are lots of issues that can impact the completion date. There can be legal issues, funding issues that set things back. So it's not a criticism to say if you didn't meet this completion date but Councilmembers always or often want to know the status of our CIP projects. What the Administration said in 2009 was that they realized that we needed as a County to do better with that, that it was important to get these projects out especially in a down economy or getting good bids and we have people unemployed who need the work. They also talked about a living document, what we come as a project initiation document (PID), and a living document idea is that you keep it up to date. If something happens that extends the completion date or changes the funding, you update the document. I hope the goal eventually is that that's on an internet, so if Council wants to know the status of a project, they don't necessarily have to have our staff write a memo and go over there, they can look at the PID, that's on the internet, that's kept up to date. But it is still important that we get CIP projects out. We have a CIP budget every year, we do bonds, and so I've also asked Finance to look at kind of a balance sheet. You know how many dollars are there in CIP if we're putting sixty million in a year, how are we doing over the course of the fiscal year of expending those funds? The Administration has acknowledged that as a County, we need to do better and brought together the coordination that under Public Works even for those projects that might be in a different department. So there's a focal point and having a similar kind of process. I've asked them to do an update and also to give us data that we can look at in advance and they did provide us this spreadsheet for today but in dialog with them, it doesn't have all of the information that would make this discussion meaningful. You all know that we have a CIP manager and so rather than have them here today and then have frustration on both sides that we don't... that we aren't ready to have this as a meaningful discussion, we agreed to defer one (1) more time. Tommy Contrades was here earlier and said that he thought two (2) weeks was okay, so I will be asking for a regular straight forward deferral. Is there any discussion before that happens? Mr. Chang.

Mr. Chang: Thank you Committee Chair. I'm actually not a member of your Committee but for the benefit of the viewing audience and the captioner, can you just let the audience know what CIP stands for?

Chair Bynum: Yes. It's a Capital Improvement Project. We have an operating budget and every year we have a capital improvement budget, so if we're going to pave the road, build a bathroom and sometimes do a planning consultant so you know it comes in a capital improvement project. Those funds come either from County General funds or we have bond funds where... and then there's another level of performance; if it was a bond that the moneys get expended within a certain amount of time. I know that the Administration is working at coordinating that better and it's time for an update, I will put this caveat in there, there are a hundred and twenty-six projects right now that are currently active. The intention is not to get an update on all a hundred and twenty-six but look at the big picture issues of how we're doing at moving these projects forward. If there are questions about specific projects that can be answered in a few sentences, that's fine because we may pick one to illustrate a point or to have a discussion. But if we get into anymore depth, I will be more than willing to post a separate agenda item to address that specific project because you know when we get this information we can look and say oh yeah, what's going on with that? I hope that answers your question Mr. Chang.

Mr. Chang: Thank you and that was clearly... really for the audience.

Chair Bynum: Right.

Mr. Chang: Just for CIP.

Chair Bynum: I know you know.

Mr. Chang: Thank you very much.

Chair Bynum: Any other discussion? Council Chair.

Mr. Furfaro: Yes. So I just wanted to be clear Mr. Bynum, you are not abandoning the color coded bar graph that they gave us two (2) years ago?

Chair Bynum: No and that's one of the things that didn't end up being on this spreadsheet and saying hey you predicted this completion date then, where are we at now? And that's why I put the caveat I accept that those dates will change. Sometimes they're reasonable and appropriate reasons that you won't follow the original timetable you would like.

Mr. Furfaro: Is your request of Finance to report it in some order of CIP items that come from the General Fund, CIP items that come from the bond float, CIP funds that come from the sewer trust fund, is it going to be subcategorized like that?

Chair Bynum: I will say that we're not going to get into the Water Department.

Mr. Furfaro: No, this is sewer, not water.

Chair Bynum: Oh sewer, yes.

Mr. Furfaro: I said sewer.

Chair Bynum: So yes I believe so.

Mr. Furfaro: Okay.

Chair Bynum: But it's not so much about each fund but how are we doing overall about getting these projects in funded and out the door and on the street and serving the public.

Mr. Furfaro: Yeah and I just want to make sure that we're separating those because the funding come from different sources. Obviously bond money, we'll borrow and we commit a payment to a bond. CIP money that's in the General Fund comes from the accumulation of reserves for specific projects. So you'll keep it separated as such maybe in three (3) categories? General Fund, Bond fund...

Chair Bynum: Well we're going to be meeting again in two (2) weeks.

Mr. Furfaro: Okay, so yet to be determined?

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Chair Bynum:

Right.

Mr. Furfaro:

Okay.

Chair Bynum:

Any other questions or discussion?

Upon motion duly made by Councilmember Kualii, seconded by Councilmember Nakamura, and unanimously carried, FPP 2011-07 was deferred.

CR-FPP 2011-14: on Bill No. 2416

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*For the Tax Year 2012*)
[Approved as Amended.]

Bill No. 2417

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*For the Tax Year 2013*)
[This item was deferred.]

Chair Bynum:

(inaudible.)

Mr. Rapozo:

Mr. Chair.

Chair Bynum:

Councilmember Rapozo.

Mr. Rapozo: The same would apply for 2417 as I discussed regarding the amendment for 2416.

Chair Bynum: (inaudible) 2417 is the Bill that has the section about Real Property Tax determination of rates, and then in that section there is specific language about which provisions are mandatory and directory, and so one of the things I want to understand is... you know there's a reason for, that I assume, why there was a distinction. I don't know if that would be included in the provisions and the blanket shall unless?

Mr. Rapozo:

I can't find that. I cannot find that section.

Mr. Kualii:

Page five (5).

Mr. Rapozo:

Page five (5)?

Mr. Kualii:

Just before section 7.

Mr. Rapozo:

Okay, well I'm looking at the actual bill.

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Mr. Kuali'i:

Oh, it's page four (4) (b) at the bottom.

Mr. Rapozo:
subsections (b) and (e).

Yeah but this section only pertains to

Mr. Kuali'i:

For directory and then later (c) and (d).

Mr. Rapozo:
(6) with that subsection (e).

Right but you're only referencing section six

Mr. Kuali'i:

That's all we talked about two (2) weeks ago.

Mr. Rapozo: Right but what I'm saying is that as we're looking at section five (5), if you look at section... well section three on page two, on or before March 31 preceding the tax year, the Director shall have prepared the records. I want to make sure that it covers all of the dates in all of the sections in the tax bill. Not just section six (6), as subsection (e) only references (b), (e), (c) and (d).

Mr. Kuali'i:

Right.

Mr. Rapozo: And that's one of the things I think we got to look through and I'll do that over the next few days that... and maybe with the help again of the Tax Office and the County Attorney's Office, maybe somewhere in there should be directory and not mandatory, but we'll rely on the recommendations of the Administration.

Chair Bynum:
unless otherwise indicated...

Right. And perhaps the language will say

Mr. Rapozo:

Yeah.

Chair Bynum:

So does anyone have amendments for 2417?

Mr. Kuali'i: I wanted to have an amendment tonight, I requested information from Housing and I got it but after... and it was a pretty fast turnaround but with regards to the affordable rental housing rates, because the rates that we looked at two (2) weeks ago was only addressing extremely low income thirty percent, very low income fifty percent, and low income eighty percent. There's language in here that is suggesting that the maximum housing cost be based on eighty percent instead of a hundred percent, but I wanted to see what it would be for seventy-five percent, seventy percent, and sixty-five percent. I got that information but when I looked at it closer, there are some errors or typos and I need to reconfirm the numbers. I basically wanted to possibly make an amendment to either seventy-five percent or seventy percent and it would show you what the rents would be. My thought basically is in exchange for the tax benefit that we're giving

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landlords-what benefit in low rent to our constituents are we getting. It takes some analysis and I need the right numbers and I think... I hope to have it by next week.

Chair Bynum: I heard what the Chair has said about entertaining amendments at full Council but this one is pretty complex and I know I would have a reaction right away because this is one of my favorite provisions of this. If we take the rate too low, we'll shoot ourselves in the foot because it won't be...

Mr. Kualii: But can you prove to me that eighty percent is exactly the right rate right now. That it's not too high or too low because I may be able to prove to you that we should be at seventy-five percent, but I need the right numbers from Housing. I only asked them days ago and they gave me this pretty quickly, but when I looked at it more carefully, I think staff is going to follow up and try to get some corrections. If can, can.

Chair Bynum: It's not an issue if whether can, it's whether we're going to move a bill out when there's work left to do. Councilmember Yukimura.

Ms. Yukimura: Well I guess there are dates in this Bill as well. I want Real Property people to be listening here.

Chair Bynum: Hold on a second. Can I ask you guys to come back up; Councilmember Yukimura is posing a question.

There being no objections, the rules were suspended.

Ms. Yukimura: Steve, I know you said that at least with 2416, the faster we move it out, the better it will be for you folks in terms of making the change. Is that true also of 2417?

STEVEN HUNT, REAL PROPERTY REVIEW OFFICER: 2417 we have some more time on. The major issues that we're going to have with timing obviously we're shortening our appraisal window for the 2013 tax year. (inaudible) two (2) assessment notices go out in 2012 if we're going to an October 1 date of value, so there is some time compression to do our job. The major work that's going to be involved is obviously surveying the improved properties for their use. We're going to have to send out mailings to all the properties to find out how the properties are being used.

Ms. Yukimura: That's a big swell.

Mr. Hunt: So it's a big task, so the sooner the better, but it's not as critical at this juncture.

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Ms. Yukimura: On 2416 I think if we all work together we can get it out by the end of this month. If we get 2417 out by the end of the year?

Mr. Hunt: That'd be fine.

Ms. Yukimura: That would work okay, which would buy us a couple more meetings, well two (2) more meetings to work on this affordable housing provision. Maybe we can keep this one in Committee. Thank you.

Mr. Hunt: You're welcome.

Chair Bynum: I recognize Council Chair, but I just to clarify what I said earlier, KipuKai, I'd be more than happy to have the discussion because this is the best provision that I've seen to incentivize keeping rents low and it flexes with the market, so more discussion is great. I just wanted to clarify, it wasn't a matter of I opposed your amendment because I don't even know what it is. It was a matter of not wanting to leave it to Council and we clarified that it was not necessary. Go ahead.

Mr. Furfaro: As everybody seems to be taking care of these amendments and using my goodwill, I don't like items to come to the full Council that we know we're going to amend. I want to clarify what Council Vice Chair Yukimura just said. It is my understanding that I'm waiting for verbiage from the County Attorneys on the directorial or the mandate of shall provision for Bill 2416 and then she said if we get to that next month. I heard from you, you'd like to get this with some urgency?

Mr. Hunt: I think...

Mr. Furfaro: 2416, and then she summarized 2417 after that.

Mr. Hunt: I believe she said by the end of this month, if I'm not mistaken? 2416.

Ms. Yukimura: 2416 because we've moved it out to the Council floor for next week...

Mr. Furfaro: There's the word I wanted to hear... for next week.

Ms. Yukimura: Yes.

Chair Bynum: Yes.

Mr. Furfaro: Not end of the month.

Ms. Yukimura: That's right. So we can pass it out on the 16th which is the last Council meeting of this month.

Mr. Furfaro: Outstanding. Because we're all going to eat turkey after that. So I just wanted to make sure.

Ms. Yukimura: You can celebrate eating turkey.

Mr. Furfaro: I restate that because I'm looking to the two (2) County Attorneys back there, and I appreciate the verbiage... the verbiage goes to Mr. Bynum because somebody is going to have to introduce it as an amendment on the Bill when it's in Council. 2417 we have time but we only have two (2) meetings in December.

Mr. Hunt: If I can just summarize to make sure I have all the concerns addressed as well. Some of the questions that have come up today that you wanted clarity on and/or amendments before. When the Honolulu CPI comes out, the dates, the Ag language from Damien whether it's specific to tree farming or general Ag, and what the meaning for that ranching which I believe we would have taken out. Section 9.3(e)(1) and (e)(2) whether it's redundancy now that we've gotten away from the initial year of the cap. Then the dates, some verbiage on mandatory and directory, are that correct?

Mr. Furfaro: Mandatory / directory, that's what I'm looking for and I would like you to send it to Mr. Bynum before it gets to Council. Is that alright with you Chair?

Chair Bynum: Yes. Councilmember Yukimura.

Ms. Yukimura: And this we're all hoping to resolve by next week? On the Ag thing, we also wanted from Damien how... the requirement of ranching and cultivation is that on the full property for properties less than a hundred acres, because it's specified for those properties over a hundred acres, but it's not specified for the properties under a hundred.

Mr. Hunt: I will clarify with him, but I think the intent is the area that is actually being dedicated. You could have a larger property but you're only dedicating a portion of it, and when you're dedicating something that is a hundred acres or more, at least fifty percent of that dedicated area if it's more than a hundred acres, and a hundred acres if you're dedicating a hundred acres.

Ms. Yukimura: Or for those under a hundred acres, the full part that were dedicated?

Mr. Hunt: Correct.

Ms. Yukimura: Okay, that's good. And then... Chair?

Chair Bynum: You have the floor.

Ms. Yukimura: So that deals with 2416, and then for 2417 we have at least two (2) more Committee Meetings before the end of the year. We have a Committee Meeting two (2) weeks from now which is the 23rd and then we have a Committee Meeting in December which is on the 7th, followed by our final Council Meeting on the 14th, so we actually have two (2) Committee Meetings in which to work on this affordable housing issue and anything else that comes up regarding 2417, with the goal of getting it passed before the end of the year, and that will work for you folks?

Mr. Hunt: 2417, yes.

Ms. Yukimura: Yes 2417, okay, thank you.

Chair Bynum: Chair.

Mr. Furfaro: Yes and just so we're not all confused... we started a day by saying December 13 we're going to have a Special Meeting on the landfill, and on December 15 we're going to have a Special half day on the CAFR. So I just wanted to make sure we have a very compact week there, the second period. The other thing, Mr. Bynum, I wanted to say that I took advantage of a motion in your Committee to remind people about sending legal questions to the Chair's office and pose the question to Jennifer to make sure that hey at least give them a minimum of three (3) working days to respond to the question. Because you folks are not seeing the emails I'm getting back from the County Attorney's Office about putting all these urgencies on them, so I thought it was a nice way to bring it up but I'm sorry I took advantage of it.

Chair Bynum: Twice.

Mr. Furfaro: Very good, very effective. You know what it's called... be nice, live aloha.

Chair Bynum: Any further discussion?

Ms. Yukimura: If we're ready, I'll move to defer 2417.

Chair Bynum: I have something to say.

Ms. Yukimura: Okay.

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There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Bynum: I want to put this in context and then I'm going to be done for tonight but I've been obsessing about tax issues for a couple of years now. Before I came on to the Council in 2004, there was a Real Property tax task force made up of very prominent community members who worked very hard for a year or more and they had provisions to make fundamental changes in the tax code. One of the primary things was a very progressive way to tax by taxing land at a much lower rate than building. That when I say progressive it meant that people who had high value land but modest homes were... have had a history of having tax difficulties based on these assessed values of land going up that they may have inherited. That really targeted tax relief on the low and middle income and it even resulted in some tax increase for very high end homes. That proposal eventually not... any provision of that was adopted by the Council, when I came on the Council in 2007, that bill even though it had been brought to us in 2004 has actually received with a commitment and I've read these transcripts and I'd be happy to supply them to any Councilmembers who are interested with the understanding that comprehensive... a alternative comprehensive tax proposal was coming down shortly. In 2008 the Administration put forward a proposal, now in the intervening time we had the infamous 'Ohana Amendment which would had rolled back taxes and cap them and it was famously overturned by the Hawai'i State Supreme Court. The Council passed provisions and I believe Council Chair Furfaro was either author or co-author of a two percent (2%) cap provision or permanent home use.

Mr. Furfaro: I was the author.

Chair Bynum: You were the author and also six percent (6%) cap for affordable housing and I believe the Chair said at the time that these were interim measures until we did comprehensive tax reform. When the bill... the comprehensive bill came in 2008, it maintained a lot of the provisions or suggestions that the 2004 tax committee had recommended, for instance, their recommendation was two (2) tax categories. In 2008, it came with four (4) tax categories, but it kept that provision that was progressive and in addition to that the Administration said proposed... a lot of language about who would pay what portion of the tax bills and that provision called for a thirty-five percent (35%) reduction of taxes for people who live and work on Kaua'i with some incremental increases for people who invest on Kaua'i. Basically making the argument that people who live and work here should pay a small burden portion of the tax burden and part of their provision was also saying that the permanent home use which has been effective in keeping local people taxes low, had some unintended consequences that created inequities that needed to be addressed. I don't think anybody disagreed with that but the bill in 2008 did not pass, okay. So that promise from 2004 and 2005 are substantial reform, you know, has yet to occur...

Ms. Nakamura:

Eight (8)...

Chair Bynum: ... it's starting to happen today. Structurally we're making... not the same changes, this provision is not as progressive in its taxation as those first two (2) were but it has some other elements that are really positive in some of the same sections. But this bill does not address who pays what portion of the tax burden. I've been very interested in that in the last two (2) years and in April of this year I put forward a bill to increase the homeowner's exemption. That bill was intended to be for this fiscal year but I received memos from Real Property that said no, the time is too constrained, we can't do that reform this year. So I've left that bill on the agenda because we still, I still want to address property tax exemptions. In the 2008 bill the proposal was to make Real Property tax exemptions... I mean homeowner exemptions for people who live and work here at three hundred thousand dollars, three, twenty-five, three, fifty for seniors graduated... that was a very... would have created a very substantial tax relief for people who live and work here that didn't pass. In the intervening three (3) years taxes for people who live and work here have gone up. Well people who invest here have seen their taxes go down and so... and so then I said well if we can't do tax relief, how about a tax credit on a January bill and I asked for a timeline and I got the memo back that said, too late, can't get it done this fiscal year. So now I'm contemplating changes in the homeowner exemption for next year and I get a memo that says that we're running out of time. If we're going to make those changes, we need to make them quickly.

Mr. Furfaro: (inaudible)

Chair Bynum: No, this is a very friendly exchange back and forth between Real Property.

Mr. Furfaro: I just want to clarify who you were referring to.

Chair Bynum: And so we're going to look at... they've started the process of looking at these timelines because it doesn't make sense for us to get the data and information about what our fiscal condition is then it's too late to make changes. So part of this process is to look at these timelines to make sure that in the future the Council has sufficient time once we receive the data of our fiscal condition in order to make changes. But I'm worried about getting tax relief for people who live here even next year. I wasn't able to do it this year and so... because there are technical issues about putting those bills forward that need to overcome so I just want to say that that bill is still pending. I intend to bring it back up here as soon as I can, I hoped that it would come all together with these bills so we can do all the tax discussion at once. But if we don't get those bills done and for consideration of this body, they're just proposals, I have to see if members agree. I don't want to run into a situation where when we get over the technical difficulties that the answer is oh it's too late, we can't get it done, even for next tax year. I wanted to say those concerns. 2417 nobody proposed amendments tonight.

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If there are any amendments contemplated I would encourage you to get them prepared for two (2) weeks from tonight. As the Council Chair has indicated, questions for the County Attorney should go via the Chair and our new Council rules say that those are not questions from individual members, they're questions on behalf of the body. So when they get circulated, they should get circulated in my opinion to all of us at the same time. I believe that's what our new Council rules say but those are new rules so we got to get with the...

Ms. Yukimura:

If they are subject or a consider.

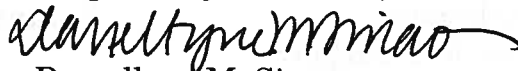
Chair Bynum:

Yeah, if they are an agenda item which this is an agenda item. Thank you for being patient with that summary. I'm going to present all of this material in more detail when I can bring that bill before the body. I didn't want anybody to be surprised and I wanted to let people know that this is happening because this is looking like by the end... within a couple more meetings, we're going to accomplish comprehensive structural tax reform which has been an effort for close to ten (10) years. Good work Real Property, County Attorney and Council body. Thank you for listening to that. Any other comments?

Upon motion duly made by Ms. Yukimura, seconded by Mr. Kuali'i, and unanimously carried, Bill No. 2417 was deferred.

There being no further business, the meeting was adjourned at 8:33 p.m.

Respectfully submitted,



Darrellyne M. Simao
Council Services Assistant II

APPROVED at the Committee Meeting held on December 7, 2011:


TIM BYNUM
CHAIR, FPP COMMITTEE